

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of: Norbert Rimoux Art Unit: NOT YETKNOWN
 Serial No.: 09/845,381 Examiner: NOT YET KNOWN
 For: METHOD AND SYSTEM FOR ADAPTIVE LEARNING AND
 PATTERN RECOGNITION
 Date: February 23, 2004

Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE NOTICE TO FILE MISSING PARTS

SIR:

Applicant hereby petitions pursuant to MPEP 711.03(c)II that the Commissioner withdraw the holding of abandonment in the above-identified patent application ("the Application").

The facts of the case are as follows:

1. On or about January 30, 2004, in the course of looking up the USPTO's PAIR system (United States Patent and Trademark Office's Patent Application Information Retrieval), Applicants' attorneys uncovered the Application's status as being abandoned.
2. Not knowing why the Application should be deemed abandoned, the docket record for the Application and the physical file jacket from the record room were retrieved.
3. A copy of the docket record is attached as Exhibit A.
4. A copy of the front cover of the file jacket is attached as Exhibit B.

RECEIVED

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CERTIFICATE OF MAILING

TECHNOLOGY CENTER R3700

I hereby certify that this correspondence is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated below and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: February 23, 2004; Express Mail label number: EJ622909148US.

Eunhee Park, Esq. Reg. No. 42,976

Date: February 23, 2004

5. A search in the docket record (Exhibit A) shows no entry for the Notice to File Missing Parts. If the Notice to File Missing Parts was received, it would have been entered as an action item in the docket record. The docket system would then have automatically populated a reply date of 2 months from the date of the Notice to File Missing Parts.

6. A search in the docket record (Exhibit A) also shows no entry for the Notice of Abandonment. If the Notice of Abandonment was received, it would have been entered in the docket record and appear as a row item in the docket record.

7. A manual search in the file jacket indicates that neither the Notice to File Missing Parts nor the Notice of Abandonment was received. If the Notice to File Missing Parts and the Notice of Abandonment were received, they would be present in the file jacket. They are not in the file jacket.

8. If the Notice to File Missing Parts was received, the front cover of the file jacket (Exhibit B) would have appropriate entries entered under the "Date of Off Actions" column, "Description" column, "Response Due" column, "Atty." column. No such entries appear on the file jacket cover.

9. After verifying that the status of the Application under the USPTO PAIR system is erroneous, Applicant's attorney contacted the Customer Service Center Initial Patent Examination Division, inquiring about the reason for the status of abandonment.

10. The customer service personnel informed the Applicant's attorney that a Notice to File Missing Parts was mailed on June 27, 2001, and that a Notice of Abandonment was mailed on August 26, 2002.

11. Applicant's attorney requested facsimile copies of the Notice to File Missing Parts and the Notice of Abandonment (Exhibit C).

From the above facts, Applicants submit that the abandonment of the application should be withdrawn because Notice to File Missing Parts and Notice of Abandonment were not received, and the Applicant's attorney only recently uncovered the application's status as being abandoned.

No fee is believed due with the filing of this petition. However, if any fee is due, or to credit any overpayment, the Commissioner for Patents is hereby authorized to charge Deposit Account no. 02-0393 of Baker & McKenzie.

Respectfully submitted,

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